

**Alaska Wilderness League • Audubon Alaska •  
Center for Biological Diversity • Conservation Lands Foundation •  
Defenders of Wildlife • Earthjustice •  
Northern Alaska Environmental Center • The Wilderness Society**

*Sent via email*

March 30, 2020

Racheal Jones, Project Lead  
Alaska State Office  
Bureau of Land Management (BLM)  
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Steve Moore  
U.S. Army Corps of Engineers, Alaska District  
Regulatory Division  
JBER, Alaska 99506  
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**Re: Request for Suspension of Public Comment Period for Willow Master  
Development Plan Supplemental Draft Environmental Impact Statement and  
POA-2018-00190**

Dear Ms. Jones:

On behalf of the above-listed organizations and our members, we request the Bureau of Land Management (BLM) and U.S. Army Corps of Engineers (Corps) immediately suspend the public comment periods for the supplemental draft Environmental Impact Statement (EIS) for the proposed Willow Master Development Plan (MDP) and the Clean Water Act section 404 Public Notice. We also write to register our outrage at the fact these comment periods began at a time when Alaska and the rest of the world are in the midst of a global pandemic. It is unconscionable for the Trump Administration and ConocoPhillips, Alaska, Inc. (CPAI) to move forward with two public comment periods, public meetings, and subsistence hearings on this project at this time.

President Trump has declared a “national health emergency” to address the COVID 19 virus. The nation’s attention is focused on keeping its families healthy and safe. Many schools are closed, which means parents are focused on childcare. Workplace activities have been disrupted, making it difficult for many people to focus on business-as-usual activities. State and local government organizations across the country have requested formal pause on “all open public comment periods concerning both active rulemakings and non-rulemaking notices across

every federal department or agency.”<sup>1</sup> As these organizations point out in their letter, the “stated vision of the eRulemaking Program at Regulations.gov is to enable the public ease of access to participate in a high quality, efficient, and open rulemaking process. The extreme impact on normal working and living conditions will impair the ability of not only state and local officials, but also the general public, issue experts and others to provide thoughtful and meaningful participation and involvement in potential federal government actions that directly affect millions of people.”<sup>2</sup>

In Alaska, Governor Dunleavy has put in place numerous restrictions limiting the public’s ability to gather, work, and travel. For example, the Governor recently put in place a requirement that any travelers self-quarantine for a period of two weeks. Many individual communities have put in place even more stringent restrictions. For many communities in Alaska, there are serious limitations on health care resources, which are being exacerbated by the current outbreak of COVID 19. Communities are also using all existing resources to prepare and address this health crisis. All of these restrictions will make it extremely challenging, if not impossible, for individuals to engage in public meetings or to devote resources toward engaging in this process when there are more pressing health, family, and other matters. BLM’s decision to move forward with this public comment period in the middle of this crisis is directly at odds with its obligation to meaningfully involve the public in its decision-making processes.

Commenting on the Willow MDP supplemental draft EIS and the Corps 404 permit requires concerted, focused attention and resources that many people who normally engage in these processes simply do not have right now. Additionally, meaningful public participation requires in-person public meetings, especially in the community of Nuiqsut, which would be significantly impacted by this proposal. Holding such meetings would be in conflict with the President’s request to limit public gatherings and would present unnecessary health and safety risks at this time. It would also be directly at odds with local and statewide directives to limit travel. It would particularly threaten rural communities by allowing individuals from outside the community to enter. BLM should not hold a public comment period at time when its staff cannot — and should not be asked to — travel throughout the state for such meetings. Using teleconferences or phone calls for public meetings would be an ineffective and inappropriate way to engage the public, particularly for those meetings taking place in rural communities.

This is a complex and far-reaching infrastructure proposal that is likely to have significant impacts on the region and the entire National Petroleum Reserve–Alaska (NPRA) — particularly on the Teshekpuk Lake Special Area — and that warrants a meaningful comment period. BLM must ensure adequate time and opportunity to engage the public in each step of this process.<sup>3</sup> A 45-day comment period during a national emergency is insufficient to meet BLM’s NEPA obligations to provide robust participation by the interested public, given the sensitive resources, the complexity of the issues and analysis required, and the timing of the proposal.<sup>4</sup> It is noteworthy that administrative actions and public comment periods for other federal agencies

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<sup>1</sup> March 20, 2020, Letter to President Trump from National Governors Association, National Council of State Legislatures, National League of Cities, United States Conference of Mayors and others, available at <https://www.nga.org/letters-nga/state-and-local-government-organizations-seek-pause-on-public-comments-on-rulemaking-processes/>.

<sup>2</sup> Id.

<sup>3</sup> 40 C.F.R. §§ 1500.2(d), 1506.6.

<sup>4</sup> 40 C.F.R. § 1503.1(a)(4).

are being suspended or extended for “to be determined” amounts of time due to the national emergency.<sup>5</sup> BLM and the Corps should do the same, in the interests of meaningful public participation.

BLM posted the supplemental draft EIS to its planning website on Friday, March 20, with the comment period extending from that time through May 4, 2020. BLM simultaneously issued a press release, praising its own decision to issue a supplemental draft EIS with statements from State Director Chad Padgett that “[p]ublic involvement is critical to responsibly developing our natural resources in Alaska.” Such statements cannot pass the red-face test. The Corps published its Public Notice on March 26<sup>th</sup>, which closes on May 11<sup>th</sup>. To be clear, holding the minimally required public comment period in the middle of a global health crisis does not support public participation; it suppresses it. The manner in which the Administration and CPAI are operating appears to be specifically targeted at suppressing the public’s ability to review and engage in the evaluation of this project, contrary to NEPA.

The rushed manner in which the Administration has proceeded on this project also raises serious questions about whether the permitting agencies have done enough to adequately analyze the serious impacts that are likely to result. As we pointed out in comments on the draft EIS, CPAI has not produced a complete project design, had not applied for a 404 Clean Water Act permit with the Army Corps of Engineers, and as a result, BLM’s analysis in its initial draft EIS was woefully inadequate. Indeed, CPAI and BLM’s failure to consider reasonable alternatives, suggested by the public during scoping, are the reason for this supplemental EIS. It is inappropriate for the agencies to be moving forward with this NEPA review and permitting process when the Corps just received a permit application, which groups had pointed out the need for months ago. Information relevant for the 404 permit regarding reasonable alternatives and impacts to hydrologic resources is critical and should have been contained in the draft EIS. That BLM would issue its supplemental draft EIS—which is devoid of the same critical information gaps as its first draft EIS—just days before the Corps noticed its complete permit cannot be a coincidence. It illustrates an effort by agencies and CPAI to preclude meaningful analysis of the impacts of its proposal and reasonable alternatives. The manner in which the agencies and CPAI is operating is shameful. Rather than continuing to rush ahead in this process, BLM and the Corps should stop the process and take appropriate steps to ensure the agencies receive a complete application, and analyze critical information regarding the project, as required under NEPA, before proceeding any further. Such work can be done while keeping agency staff safely within their homes and would allow the public time to deal with this crisis before beginning a public comment period.

We request a response by April 10, 2020 to ensure we are able to meet the comment deadline should the Administration reject our reasonable request. Should BLM and the Corps do the right thing and suspend the comment period, we request that any new public comment period last no less than 60 days to allow adequate time for public involvement. If you have any questions, please feel free to contact David Krause at The Wilderness Society, 907-272-9453 or david\_krause@tw.s.org.

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<sup>5</sup> See Attachment (letter from Daniel Boone National Forest Supervisor suspending public objection period in light of COVID-19); See also <https://www.fs.usda.gov/detail/nfsnc/home/?cid=stelprdb5397660> (U.S. Forest Service extending public comment period for forest plan revision with the length of time to be determined).

Sincerely,

Kristen Miller  
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Alaska Wilderness League

Natalie Dawson  
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David Krause  
Alaska Assistant Director  
The Wilderness Society

CC: Chad Padgett, State Director, Bureau of Land Management - Alaska  
Chris Wrobel, Environmental Project Manager, ConocoPhillips Alaska, Inc.